



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0272]

RIN 1625-AA00

Safety Zones; Sector Upper Mississippi River Annual and Recurring Safety Zones
Update

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend and update its annual and recurring safety zones that take place in the Sector Upper Mississippi River Captain of the Port Zone (COTP Zone). This proposed rulemaking informs the public of regularly scheduled events that require additional safety measures through establishing of a safety zone. This proposed rulemaking also proposes to update the current list of recurring safety zones with revisions, additional events, and removal of events that no longer take place in the COTP Zone. Additionally, this proposed rulemaking project reduces administrative costs involved in producing separate proposed rules for each individual recurring safety zone and serves to provide notice of the known recurring safety zones throughout the year. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2017-0272 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LCDR Sean Peterson, Chief of Prevention, U.S. Coast Guard; telephone 314-269-2568, email Sean.M.Peterson@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Upper Mississippi River
COTP Zone	Sector Upper Mississippi River Captain of the Port Zone
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The Captain of the Port Upper Mississippi River proposes to amend 33 CFR section 165.801 to update our current list of recurring safety zones in the COTP Zone.

The current list of annual and recurring safety zones occurring in the COTP Zone is published under 33 CFR section 165.801 in Table 2. This list was established through a rulemaking process providing for comment and public participation. No adverse comments were received, resulting in the final rulemaking 81 FR 36171, which was published June 6, 2016.

The Coast Guard proposes to amend 33 CFR section 165.801 and update the annual and recurring safety zone regulations to include the most up to date list of annual

and recurring safety zones for events held on or around navigable waters within the COTP Zone. These events include fireworks displays, air shows, festival events, and other recurring marine related safety events. The current list under 33 CFR 165.801 needs to be amended to provide new information on existing safety zones, include new safety zones expected to recur annually, and to remove safety zones that are no longer required. Issuing individual regulations for each new safety zone, amendment, or removal of an existing safety zones creates unnecessary administrative costs and burdens. This single proposed rulemaking will considerably reduce administrative overhead and provide the public with notice through publication in the Federal Register of the upcoming annual and recurring safety zones. The Coast Guard proposes this rulemaking under the authority in 33 U.S.C. 1221.

The Coast Guard encourages the public to participate in this proposed rulemaking through the comment process so that any necessary changes can be identified and implemented in a timely and efficient manner.

III. Discussion of Proposed Rule

Section 165 of 33 CFR contains regulations establishing limited access areas on U.S. navigable waters. Section 165.801 lists the established recurring safety zones taking place in the Eighth Coast Guard District is separated into tables for each of the seven sectors within the Eighth District. Table 2 lists the recurring safety zones for Sector Upper Mississippi River. This section, and table, requires amendment from time to time to properly reflect the recurring safety zones in the COTP Zone. This proposed rule amends and updates § 165.801 by revising Table 2 for Sector Upper Mississippi River.

Additionally, this proposed rule adds 4 new and removes 1 recurring safety zone

as listed below.

This proposed rule adds 4 new safety zones to Table 2 in §165.801 as follows:

Date	Sponsor/name	Sector Upper Mississippi River location	Safety zone
1 day—1 st Weekend in June	St. Louis Brewers Guild Festival Fireworks	St. Louis, MO	Upper Mississippi River mile marker 179.2-180
1 day—4 th Weekend in May	Lumiere Place/Memorial Day Fireworks	St. Louis, MO	Upper Mississippi River mile marker 180-180.5
1 day—1 st Weekend in July	Lumiere Place/4 th of July Fireworks	St. Louis, MO	Upper Mississippi River mile marker 180-180.5
1 day—1st Weekend in September	Lumiere Place/Labor Day Fireworks	St. Louis, MO	Upper Mississippi River mile marker 180-180.5

This proposed rule removes the following 1 safety zone from the existing Table 2 in §165.801 as follows:

Date	Sponsor/name	Sector Upper Mississippi River location	Safety zone
45. 2 days—A weekend in September	St. Louis Drag Boat Association/New Athens Drag Boat Race	New Athens, IL	Kaskaskia River mile marker 119.7 to 120.3.

The effect of this proposed rule would be to restrict general navigation in the safety zone during the events. Vessels would experience limited access on the waterway when the safety zones are in effect. Requests to transit into, through, or within a safety zone would be considered and would be allowed only when deemed safe by the COTP, or designated representative.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

The Coast Guard expects the economic impact of this proposed rule to be minimal, and therefore a full regulatory evaluation is unnecessary. This proposed rule establishes safety zones limiting access to certain areas under 33 CFR 165 within the COTP Zone. The effect of this proposed rulemaking will not be significant because these safety zones are limited in scope and duration. Additionally, the public is given advance notification through local forms of notice, the Federal Register, and Notices of Enforcement and thus will be able to plan operations around the safety zones in advance. Vessel traffic may request permission from the COTP or a designated representative to enter the restricted areas.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit these safety zones may be small entities, for the reasons stated in section IV.A. above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing safety zones limiting access to certain areas under 33 CFR 165 within the COTP Zone and is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of Commandant Instruction M16475.ID. A preliminary environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this proposed rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this

document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. In §165.801, revise Table 2 to read as follows:

TABLE 2 OF §165.801—SECTOR UPPER MISSISSIPPI RIVER ANNUAL AND RECURRING SAFETY ZONES

Date	Sponsor/name	Sector Upper Mississippi River location	Safety zone
1. 1 day—4th weekend in July	Marketing Minneapolis LLC/Target Aquatennial Fireworks	Minneapolis, MN	Upper Mississippi River mile marker 853.2 to 854.2.
2. 1 day—4th of July weekend	Radio Dubuque/Radio Dubuque Fireworks and Air show	Dubuque, IA	Upper Mississippi River mile marker 581.0 to 583.0.
3. 1 day—2nd weekend of June	City of Champlin/Father Hennepin Fireworks Display	Champlin, MN	Upper Mississippi River mile marker 870.5 to 872.0.
4. 1 day—4th of July weekend	Downtown Main Street/Mississippi Alumination	Red Wing, MN	Upper Mississippi River mile marker 790.8 to 791.2.
5. 1 day—4th of July weekend	Tan-Tar-A Resort/Tan-Tar-A 4th of July Fireworks	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 025.8 to 026.2.
6. 1 day—1st weekend of September	Tan-Tar-A Resort/Tan-Tar-A Labor Day Fireworks	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 025.8 to 026.2.
7. 1 day—Last Sunday in May	Tan-Tar-A Resort/Tan-Tar-A Memorial Day fireworks	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 025.8 to 026.2.
8. 1 day—4th of July weekend	Lake City Chamber of Commerce/Lake City 4th of July Fireworks	Lake City, MN	Upper Mississippi River mile marker 772.4 to 772.8.
9. 1 day—4th of July weekend	Greater Muscatine Chamber of Commerce/Muscatine 4th of July	Muscatine, IA	Upper Mississippi River mile marker 455.0 to 456.0.
10. 1 day—Last weekend in June/First weekend in July	Friends of the River Kansas City/KC Riverfest	Kansas City, KS	Missouri River mile marker 364.8 to 365.2.
11. 1 day—4th of	Louisiana Chamber of	Louisiana,	Upper Mississippi

July weekend	Commerce/Louisiana July 4th Fireworks	MO	River mile marker 282.0 to 283.0.
12. 1 day—4th of July weekend	Guttenberg Development and Tourism/Stars and Stripes River Day	Guttenberg, IA	Upper Mississippi River mile marker 615.0 to 615.5.
13. 4 days—1st or 2nd week of July	Riverfest, Inc./La Crosse Riverfest	La Crosse, WI	Upper Mississippi River mile marker 697.5 to 698.5 (Wisconsin).
14. 1 day—2nd weekend in July	Prairie du Chien Area Chamber of Commerce/Prairie du Chien Area Chamber Fireworks	Prairie du Chien, WI	Upper Mississippi River mile marker 635.2 to 635.7.
15. 1 day—4th of July weekend	JMP Radio/Red White and Boom Peoria	Peoria, IL	Illinois River mile marker 162.5 to 162.1.
16. 1 day—Last weekend in June/First weekend in July	Hudson Boosters/Hudson Booster Days	Hudson, WI	St. Croix River mile marker 016.8 to 017.2.
17. 2 days—4th of July weekend	City of St. Charles/St. Charles Riverfest	St. Charles, MO	Missouri River mile marker 028.2 to 028.8.
18. 1 day—4th of July weekend	Minneapolis Park and Recreation Board/Red, White, and Boom Minneapolis	Minneapolis, MN	Upper Mississippi River mile marker 853.5 to 854.5.
19. 1 day—4th of July weekend	Davenport One Chamber/Red White and Boom	Davenport, IA	Upper Mississippi River mile marker 482.0 to 482.7.
20. 2 days—3rd weekend of July	Amelia Earhart Festival Committee/Amelia Earhart Festival	Kansas City, KS	Missouri River mile marker 422.0 to 424.5.
21. 1 day—4th of July weekend	Alton Exposition Commission/Mississippi Fireworks Festival	Alton, IL	Upper Mississippi River mile marker 202.5 to 203.0.
22. 1 day—3rd Sunday in June	Burlington Steamboat Days/Burlington Steamboat Days	Burlington, IA	Upper Mississippi River mile marker 403.5 to 404.5.
23. 1 day—Last Sunday in May	Lodge of the Four Seasons/Lodge of the Four Seasons Memorial Day Fireworks	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 013.8 to 014.2.
24. 1 day—First weekend of	Lodge of the Four Seasons/Labor Day Fireworks	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 013.8

September			to 014.2.
25. 1 day—4th of July weekend	Lodge of the Four Seasons/Lodge of the Four Seasons 4th of July	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 013.8 to 014.2.
26. 2 days—3rd weekend in July	Hasting Riverboat Days/Rivertown Days	Hasting, MN	Upper Mississippi River mile marker 813.7 to 815.2.
27. 1 day—Sunday of Father's Day weekend	Winona Steamboat Days/Winona Steamboat Days Fireworks	Winona, MN	Upper Mississippi River mile marker 725.4 to 725.7.
28. 3 days—4th of July weekend	Fair of St. Louis/Fair St. Louis	St. Louis, MO	Upper Mississippi River mile marker 179.2 to 180.0.
29. 1 day—Last weekend in June/First weekend in July	Bellevue Heritage Days/Bellevue Heritage Days	Bellevue, IA	Upper Mississippi River mile marker 556.0 to 556.5.
30. 1 day—4th of July weekend	Main Street Parkway Association/Parkville 4th of July Fireworks	Parkville, MO	Missouri River mile marker 378.0 to 377.5.
31. 1 day—4th of July weekend	Hermann Chamber of Commerce/Hermann 4th of July	Hermann, MO	Missouri River mile marker 097.0 to 098.0 (Missouri).
32. 1 day—4th of July weekend	Grafton Chamber of Commerce/Grafton Chamber 4th of July Fireworks	Grafton, IL	Illinois River mile marker 001.5 to 000.5 (Illinois).
33. 1 day—4th of July weekend	Salute to America Foundation, Inc./Salute to America	Jefferson City, MO	Missouri River mile marker 143.5 to 143.0 (Missouri).
34. 1 day—4th of July weekend	McGregor/Marquette Chamber Commerce/Independence Day Celebration	McGregor, IA	Upper Mississippi River mile marker 635.7 to 634.2.
35. 2 days—2nd weekend in August	Tug Committee/Great River Tug	Port Byron, IL	Upper Mississippi River mile marker 497.2 to 497.6 (Illinois).
36. 1 day—4th of July weekend	City of Stillwater/St. Croix Events/Stillwater 4th of July	Stillwater, MN	St. Croix River mile marker 022.9 to 023.5 (Minnesota).
37. 2 days—3rd weekend of September	Riverside Chamber of Commerce/Riverfest	Riverside, MO	Missouri River mile marker 371.8 to 372.2.

38. 4 days—3rd week of July	St. Croix Events/Lumberjack Days	Stillwater, MN	St. Croix River mile marker 022.9 to 023.5 (Minnesota).
39. 2 days—Weekend that precedes Labor Day Weekend	Lake of the Ozarks Shootout, Inc./Lake of the Ozarks Shootout	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 032.5 to 034.5.
40. 2 days—1st weekend of September	City of Keithsburg/Keithsburg Fireworks Display	Keithsburg, IL	Upper Mississippi River mile marker 427.5 to 427.3.
41. 1 day—4th of July weekend	City of East Moline/City of East Moline Fireworks	East Moline, IA	Upper Mississippi River mile marker 490.2 to 489.8.
42. 2nd Weekend in August	Lansing Lion's Club/Lansing Fish Days Fireworks	Lansing, IA	Upper Mississippi River mile marker 662.8-663.9.
43. 3rd Weekend in August	River Action/Floatzilla	Rock Island, Illinois	Upper Mississippi River mile marker 479.0-486.0.
44. 1 day—Weekend before Thanksgiving	Main Street Parkway Association/Parkville Christmas on the River	Parkville, MO	Missouri River mile marker 377.5 to 378.0.
45. 1 day—4th of July weekend	City of Marquette/Marquette Independence Day Celebration	Marquette, IA	Upper Mississippi River mile marker 634.2 to 635.7.
46. 1 day—1st Weekend in June	St. Louis Brewers Guild Festival Fireworks	St. Louis, MO	Upper Mississippi River mile marker 179.2-180
47. 1 day—4th Weekend in May	Lumiere Place/Memorial Day Fireworks	St. Louis, MO	Upper Mississippi River mile marker 180-180.5
48. 1 day—1st Weekend in July	Lumiere Place/4 th of July Fireworks	St. Louis, MO	Upper Mississippi River mile marker 180-180.5
49. 1 day—1st Weekend in September	Lumiere Place/Labor Day Fireworks	St. Louis, MO	Upper Mississippi River mile marker 180-180.5

Dated March 31, 2017.

M. L. Malloy,

Captain, U.S. Coast Guard,

Captain of the Port Upper Mississippi River.

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